

**Notice of Allowability**

Application No.

10/552,362

Examiner

Karen Cheng

Applicant(s)

COSFORD ET AL.

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 04/23/07.
2. ☒ The allowed claim(s) is/are 1-6.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application  |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>20070511</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                         |
|  | 9. <input type="checkbox"/> Other _____  |

### DETAILED ACTION

Claims 1-12 are currently pending in the instant application. Claims 7-12 have been cancelled by applicant. Claims 1-6 appear allowable over the prior art of record.

#### *Response to Amendments*

Applicant's amendments found in Amendment -- After Non-Final Rejected, filed 04/23/2007, have been fully considered and are entered. The enablement rejection(s) under 35 USC 112, first paragraph of claim 7 has been withdrawn. The objections to Claims 1 and 4 have been withdrawn in view of cancellation of subject matter and the following Examiner's Amendment. The objections to claims 2, 3, 5 and 6 have been withdrawn in view of the amendments and the following Examiner's Amendment.

#### *Examiner's Amendment*

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

1. In **Claim 1**, delete "wherein: Y is aryl and X is heteroaryl containing N with said N in said heteroaryl" and replace with -- wherein: Y is phenyl and X is pyridyl with the N in said pyridyl --.
2. In **Claim 1**, delete "A is -C<sub>0-4</sub>alkyl" and replace with -- A is -C<sub>0</sub> alkyl --.
3. In **Claim 1**, delete "B is -C<sub>0-4</sub>alkyl" and replace with -- B is -C<sub>0</sub> alkyl --.

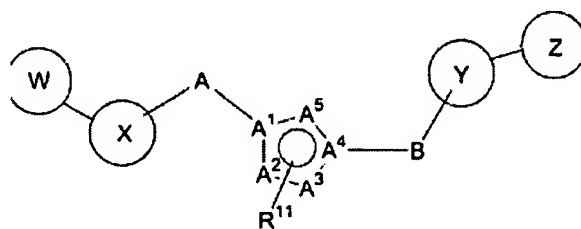
4. In **Claim 1**, delete “Z is C<sub>3-7</sub>cycloalkyl, heteroC<sub>3-7</sub>cycloalkyl, -C<sub>0-6</sub>alkylaryl, or C<sub>0-6</sub>alkylheteroaryl” and replace with -- Z is pyridyl --.
5. In **Claim 1**, delete “substituents; R<sup>11</sup> is halogen” and replace with -- ; R<sup>11</sup> is halogen --.
6. In **Claim 1**, delete “three of” and replace with -- three adjacent members of the group consisting of --.
7. In **Claim 1**, delete “the remaining are C, and ” and replace with -- the remaining members of the group consisting of A<sup>1</sup>, A<sup>2</sup>, A<sup>3</sup>, A<sup>4</sup>, and A<sup>5</sup> are C wherein --.
8. In **Claim 1**, delete “and one of W and Z” and replace with -- and W --.
9. In **Claim 4**, delete “Z is C<sub>0-6</sub>alkylheteroaryl” and replace with --Z is pyridyl --.

Authorization for this examiner's amendment was given in telephone interviews with Applicant's Representative David Rubin on 05/10/07 and 05/22/07.

#### ***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance.

This invention relates to compounds, pharmaceutically acceptable salts, and



pharmaceutical compositions of the formula:

wherein A is C<sub>0</sub> alkyl, B is C<sub>0</sub> alkyl, X is pyridyl, Y is phenyl, Z is pyridyl and the other variables are as defined. The closest prior art of record has been made of record (see Non-Final Rejection, mailed on 04/13/07) and discloses compounds that contain a heteroatom such as O between Y = phenyl and Z = pyridyl but fails to suggest or teach applicant's instant invention.

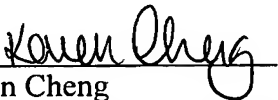
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."



### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen Cheng whose telephone number is 571-272-6233. The examiner can normally be reached on M-F, 9AM to 5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571)272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Karen Cheng  
Patent Examiner, AU 1626  
25 May 2007

  
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